

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

COMMWORKS SOLUTIONS, LLC,

Plaintiff,

v.

COMCAST CABLE COMMUNICATIONS,
LLC and COMCAST CABLE
COMMUNICATIONS MANAGEMENT,
LLC,

Defendants.

Case No.: 6:21-cv-00366-ADA

Jury Trial Demanded

JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant with the Agreed Scheduling Order (Dkt. No. 24), Plaintiff CommWorks Solutions, LLC (“CommWorks” or “Plaintiff”) and Defendants Comcast Cable Communications, LLC and Comcast Cable Communications Management, LLC (collectively, “Comcast” or “Defendants”) jointly submit this Joint Claim Construction Statement setting forth the parties’ proposed constructions for the identified terms of U.S. Patent Nos. 6,832,249 (“the ’249 Patent”), 7,027,465 (“the ’465 Patent”), 7,177,285 (“the ’285 Patent”), 7,760,664 (“the ’664 Patent”), 8,923,846 (“the ’846 Patent”), and RE42,883 (“the ’883 Patent”).

I. AGREED CONSTRUCTIONS

The parties have agreed to the construction of the following claim terms:

- The preambles of Claim 1, 4, 7, 9 of the ’664 Patent are limiting.
- “model[] said digital cross connect system as a [] link” (Claims 1 and 9 of the ’664 Patent): “represent[] said digital cross connect system as a routing link.”
- “representing each of said interconnections as a link” (Claim 7 of the ’664

Patent): “representing each routing path between nodes as a link.”

- “care of address of a mobile subscriber” (Claim 6 of the ’846 Patent): “IP address associated with a mobile node while the subscriber is visiting a particular foreign link.”
- The preambles of Claims 1 and 6 of the ’883 Patent are limiting.

II. DISPUTED CLAIM TERMS FOR CONSTRUCTION

The parties’ constructions of each disputed term in the asserted patents are set forth in the following chart.

#	Claim Term	Party Proposing Term(s)	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
1	<p>“Provisioning” / “Provisioned”</p> <p>(Claims 11, 15, 19, 31, 38, 48, 49 of the '249 Patent; Claims 1, 22, 43 of the '285 Patent; Claims 1, 2, 4, 7, 8, 9, 12 of the '664 Patent)</p>	Plaintiff	<p><i>noun</i>: “connectivity”</p> <p><i>verb</i>: “establishing connectivity [for]/[with]”</p> <p>“provisioned” means “supplied with connectivity”</p>	<p>These terms should be construed in the context of the specific claim terms of the different patents in which they appear, as Comcast has proposed below. See terms 5, 11, 12, 18, and 25.</p> <p><u>'249 Patent</u></p> <p>To the extent the term is construed in isolation, it should be construed for the '249 Patent to mean “establishing a new circuit or path” when used as a verb and “configuration, operation, characteristics, or properties of communication resources in the network” when used as a noun.</p> <p><u>'285 Patent</u></p>	

#	Claim Term	Party Proposing Term(s)	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
				<p>To the extent the term is construed in isolation, it should be construed for the '285 Patent to mean "establishing an authorized communication link."</p> <p><u>'664 Patent</u></p> <p>To the extent these words are construed in isolation, "provisioning" when used as a verb should be construed as "identifying and establishing a path"; "provisioning" when used as an adjective should be construed as "for identifying and establishing a path"; and "provisioned" should be construed as "traffic was successfully routed to the appropriate destination."</p>	

#	Claim Term	Party Proposing Term(s)	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
2	<p>“Open System Interconnection (OSI) reference model layers”</p> <p>(Claims 11, 31, 38, 48 of the '249 Patent)</p>	Defendants	no construction required / plain and ordinary meaning	“layers in a conceptual framework describing different functions in a network system with seven layers, numbered 1 to 7, that respectively correspond to physical, data link, network, transport, session, presentation, and application layers”	
3	<p>“monitor[ing] at least one OSI reference model layer”</p> <p>(Claims 11, 29, 30, 31, 38, 48 of the '249 Patent)</p>	Defendants	no construction required / plain and ordinary meaning	“monitor[ing] the communication resources associated with at least one OSI reference model layer to track quality of service events”	
4	<p>“quality of service event”</p> <p>(Claims 11, 15, 17, 18, 19, 31, 32, 41, 48, 49 of the '249 Patent)</p>	Defendants	<p>no construction required / plain and ordinary meaning</p> <p><i>alternatively, if construed,</i></p> <p>“event that affects the quality of service of data being sent across a communication system”</p>	“event that affects the quality of service of data being sent across a communication system such as error seconds, unavailable seconds, packet loss rate, transmission time (latency), jitter (deviations from an <p>seconds, packet loss rate, transmission time (latency), jitter (deviations from an</p>	

#	Claim Term	Party Proposing Term(s)	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
				expected value), and bandwidth throughput"	
5	<p>"signaling that the network provisioning...has been changed"</p> <p>(Claims 11, 31, 48, 49 of the '249 Patent)</p>	Defendants	<p><i>see</i> "provisioning"</p> <p>no additional construction required</p>	"sending a signal to a network monitor indicating that the change in network provisioning is complete"	
6	<p>"balancing data traffic throughout the network"</p> <p>(Claims 32, 33 of the '249 Patent)</p>	Defendants	<p>no construction required / plain and ordinary meaning</p> <p><i>alternatively, if construed,</i></p> <p>"adjusting the load of data traffic throughout the network"</p>	Indefinite	
7	<p>"shortest possible path"</p> <p>(Claim 33 of the '249 Patent)</p>	Defendants	<p>no construction required / plain and ordinary meaning</p> <p><i>alternatively, if construed,</i></p> <p>"a path selected by a shortest-path algorithm"</p>	Indefinite	

#	Claim Term	Party Proposing Term(s)	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
8	<p>“means for monitoring at least one OSI reference layer functioning in the multi-layered network”</p> <p>(Claim 49 of the '249 Patent)</p>	Joint proposal	<p><u>Function</u>: monitoring at least one OSI reference model layer functioning in the multi-layered network.</p> <p><u>Structure</u>: standalone or integrated network monitor with hardware and software components, and structural equivalents thereof.</p> <p>To the extent that disclosure of an algorithm is required, see algorithms disclosed in '249 pat., col. 7:48-67, 8:6-10, 9:12-10:6, 10:65-67.</p>	<p><u>Function</u>: monitoring at least one OSI reference layer functioning in the multi-layered network</p> <p><u>Structure</u>: network monitor 308 performing one of the following two processes: (1) continually polling communication resources associated with the OSI layer being monitored by sending update requests to the communication resources at predetermined intervals; or (2) receiving alert signals sent by the communication resources when predetermined alert thresholds are met.</p>	
9	<p>“means for determining that a quality of service event has occurred in the multi-layered network”</p>	Joint proposal	<p><u>Function</u>: determining that a quality of service event has occurred in the multi-layered network.</p> <p><u>Structure</u>: standalone or integrated network</p>	<p>Indefinite</p> <p><u>Function</u>: determining that a quality of service event has occurred in the multi-layered network</p>	

#	Claim Term	Party Proposing Term(s)	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
	(Claim 49 of the '249 Patent)		monitor with hardware and software components, and structural equivalents thereof. To the extent that disclosure of an algorithm is required, see algorithms disclosed in '249 pat., col. 9:40-50, 10:13-37, 11:1-67.	<u>Structure</u> : none disclosed	
10	“means for determining that the quality of service event occurred at a layer N in the OSI Reference Model” (Claim 49 of the '249 Patent)	Joint proposal	<u>Function</u> : determining that the quality of service event occurred at a layer N in the OSI Reference Model. <u>Structure</u> : standalone or integrated network monitor with hardware and software components, and structural equivalents thereof. To the extent that disclosure of an algorithm is required, see algorithms disclosed in '249 pat., col. 9:40-50, 10:13-37, 11:1-67.	Indefinite <u>Function</u> : determining that the quality of service event occurred at a layer N in the OSI Reference Model <u>Structure</u> : none disclosed	

#	Claim Term	Party Proposing Term(s)	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
11	<p>“means for responding to the quality of service event in the multilayered network by changing network provisioning at a layer less than N”</p> <p>(Claim 49 of the '249 Patent)</p>	Joint proposal	<p><u>Function</u>: responding to the quality of service event in the multilayered network by changing network provisioning at a layer less than N.</p> <p><u>Structure</u>: standalone or integrated network controller with hardware and software components, and structural equivalents thereof.</p> <p>To the extent that disclosure of an algorithm is required, see algorithms disclosed in '249 pat., col. 12:11-16:20.</p>	<p><u>Function</u>: responding to the quality of service event in the multilayered network by changing network provisioning at a layer less than N</p> <p><u>Structure</u>: network controller 304 performing one of the following two processes: (1) changing network provisioning by activating additional lines, thereby increasing the bandwidth between first and second users; or (2) adjusting the load on previously activated lines such that the connection between first and second users is allotted additional bandwidth</p>	
12	<p>“means for signaling that the network provisioning at the layer less than N has been changed”</p>	Joint proposal	<p><u>Function</u>: signaling that the network provisioning at the layer less than N has been changed.</p> <p><u>Structure</u>: standalone or integrated network controller with hardware</p>	<p>Indefinite</p> <p><u>Function</u>: signaling that the network provisioning at the layer less than N has been changed</p> <p><u>Structure</u>: none disclosed</p>	

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	(Claim 49 of the '249 Patent)		and software components, and structural equivalents thereof. To the extent that disclosure of an algorithm is required, see algorithms disclosed in '249 pat., col. 8:17-43, 15:4-11, 15:63-67. <i>see</i> "provisioning"		
13	"identifying a received frame as a priority frame in case said extracted bit pattern matches with said search pattern" (Claims 1, 6, 7 of the '465 Patent)	Defendants	no construction required / plain and ordinary meaning	"identifying a received frame as a priority frame based solely on said bit pattern and said search pattern being identical"	
14	"priority frame" (Claims 1, 6, 7 of the '465 Patent)	Defendants	no construction required / plain and ordinary meaning	"data frame that is given higher priority in traffic handling than other data frames"	
15	"offset" (Claims 1, 6, 7 of the '465 Patent)	Defendants	no construction required / plain and ordinary meaning	"numerical value indicating a number of bits from the beginning of the data frame"	

#	Claim Term	Party Proposing Term(s)	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
16	"high priority queue" (Claim 7 of the '465 Patent)	Defendants	no construction required / plain and ordinary meaning	"queue reserved exclusively for high priority frames"	
17	"tracking an operating parameter of [the/a] wireless device [within a service area]" (Claims 1, 22, 43 of the '285 Patent)	Defendants	no construction required / plain and ordinary meaning	"monitoring and noting the time of an operating parameter of the wireless device within a service area"	
18	"[logic for] initiating [provisioning/an association] of the wireless device [with a network] if the tracked operating parameter occurs within a time interval" (Claims 1, 22, 43 of the '285 Patent)	Defendants for "initiating provisioning ..." in claim 1. Joint proposal for "logic for initiating [provisioning/an association]..." in claims 22 and 43	"initiating provisioning ..." in claim 1: no construction required beyond "provisioning" <u>"logic for initiating [provisioning/an association]..."</u> in claims 22 and 43 <u>Function</u> : initiating [provisioning/an association] of the wireless device [with a network] if the tracked operating parameter occurs within a time	Indefinite <u>Function</u> : initiating [provisioning/an association] of the wireless device if the tracked operating parameter occurs within a time interval <u>Structure</u> : None	

#	Claim Term	Party Proposing Term(s)	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
			interval. <u>Structure</u> : access point, comprising a provisioning activation button, time based provisioning logic, access control list, wired network logic, a wired network connection, and a transceiver, and their equivalents. <i>see</i> “provisioning”		
19	“time interval” (Claims 1, 4, 13, 14, 22, 25, 34, 35, 43, 46, 54, 55 of the '285 Patent)	Defendants	no construction required / plain and ordinary meaning	“acceptance time interval,” otherwise, indefinite	
20	“means for tracking an operating parameter of [the/a] wireless device” (Claims 22, 43 of the '285 Patent)	Joint proposal	<u>Function</u> : tracking an operating parameter of [the/a] wireless device. <u>Structure</u> : access point, comprising a provisioning activation button, time based provisioning logic, access control list, wired network logic, a wired network connection, and a transceiver, and their equivalents.	<u>Function</u> : tracking an operating parameter of [a] wireless device <u>Structure</u> : access point, comprising a provisioning activation button, time based provisioning logic, access control list, wired network logic, a wired network connection, and a transceiver, and their	

#	Claim Term	Party Proposing Term(s)	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
				equivalents implementing the algorithm depicted in Figs. 5 and 6, items 70a and 70b and described at 5:63-6:7 and 6:52-62.	
21	<p>“digital cross connect [system]”</p> <p>(Claims 1, 3, 4, 6, 7, 9, 13 of the '664 Patent)</p>	Defendants	<p>no construction required / plain and ordinary meaning</p> <p><i>alternatively, if construed,</i></p> <p>“device that interconnects networks”</p>	<p>“a device that interconnects networks (or portions of networks), wherein the interconnected networks (or portions thereof) use different protocols or traffic rates”</p>	
22	<p>“means for creating a graph of routing nodes and links”</p> <p>(Claim 4 of the '664 Patent)</p>	Joint proposal	<p><u>Function</u>: creating a graph of routing nodes and links.</p> <p><u>Structure</u>: network configuration management system comprising a routing manager and inventory database and structural equivalents thereof.</p> <p>To the extent that disclosure of an algorithm is required, see algorithms disclosed in</p>	<p>Indefinite</p> <p><u>Function</u>: creating a graph of routing nodes and links</p> <p><u>Structure</u>: none disclosed</p>	

#	Claim Term	Party Proposing Term(s)	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
			'664 pat., col. 3:22-25, 4:7-9, 4:13-18, 6:64-7:45; see also '187 pat. app. (US 2003/0189919), paras. [0032]-[0033], [0035].		
23	<p>“means for modeling said at least a first digital cross connect system as a link between those routing nodes representing said first network element and said second network element”</p> <p>(Claim 4 of the '664 Patent)</p>	Joint proposal	<p><u>Function</u>: modeling said at least a first digital cross connect system as a link between those routing nodes representing said first network element and said second network element.</p> <p><u>Structure</u>: network configuration management system comprising a routing manager and inventory database and structural equivalents thereof.</p> <p>To the extent that disclosure of an algorithm is required, see algorithms disclosed in '664 pat., col. 7:24-45; see also '187 pat. app. (US 2003/0189919), paras. [0032]-[0033],</p>	<p>Indefinite</p> <p><u>Function</u>: modeling said at least a first digital cross connect system as a link between those routing nodes representing said first network element and said second network element</p> <p><u>Structure</u>: none disclosed</p>	

#	Claim Term	Party Proposing Term(s)	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
			[0035].		
24	<p>“means for storing a status of each of said interconnections”</p> <p>(Claim 4 of the '664 Patent)</p>	Joint proposal	<p><u>Function</u>: storing a status of each of said interconnections.</p> <p><u>Structure</u>: network configuration management system comprising a routing manager and inventory database and structural equivalents thereof.</p> <p>To the extent that disclosure of an algorithm is required, see algorithms disclosed in '664 pat., col. 4:41-51, 7:24-45, see also '187 pat. app. (US 2003/0189919), para. [0053].</p>	<p><u>Function</u>: storing a status of each of said interconnections</p> <p><u>Structure</u>: cross connection status database 324 storing configuration and status information for the digital cross connect system</p>	
25	<p>“whether a cross-connection using said digital cross connect [system] was</p>	Defendants	<p><i>see</i> “digital cross connect [system]”</p> <p><i>see</i> “provisioned”</p> <p>no construction required /</p>	<p>“whether traffic was successfully routed across the digital cross</p>	

#	Claim Term	Party Proposing Term(s)	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
	successfully provisioned" (Claim 49 of the '664 Patent)		plain and ordinary meaning	connect [system] to the appropriate destination"	
26	"transport address" (Claims 1, 4, 5, 6, 7, 8 of the '846 Patent)	Joint proposal	"IP address associated with a mobile node while the subscriber is visiting a particular foreign link"	"the current IP address, not the static home address, through which the mobile device can be reached when visiting a foreign link"	
27	"home subscription server (HSS)" (Claim 2 of the '846 Patent)	Defendants	no construction required / plain and ordinary meaning <i>alternatively, if construed,</i> "master user database that supports the IP Multimedia Subsystem (IMS) network entities that handle the calls/sessions"	"the master database for a given user containing subscription related information to support the network entities actually handling calls/sessions"	
28	"serving-call state control function (S-CSCF)" (Claim 3 of the '846 Patent)	Defendants	no construction required / plain and ordinary meaning <i>alternatively, if construed,</i> "primary node in the IP	"the component in a mobile network switching system that connects calls originating from and received for a mobile device"	

#	Claim Term	Party Proposing Term(s)	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
			Multimedia Subsystem (IMS) responsible for session control"		
29	"telephone network" (Claims 1, 6 of the '883 Patent)	Defendants	no construction required / plain and ordinary meaning	"the Public Telephone Network or a private enterprise network of telephones"	
30	"add[ing] the collaboration session to the [existing/chosen] telephone call" (Claims 1, 6, 8 of the '883 Patent)	Defendants	no construction required / plain and ordinary meaning	"establishing a separate collaboration session in addition to the [existing/chosen] telephone call"	

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Respectfully submitted,

By: /s/ Brandon G. Moore

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document and all accompanying documents via the Court's CM/ECF system on December 8, 2021.

/s/ Brandon G. Moore

Brandon G. Moore